IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 20214 of 1998

DATED: 13.6.2007

Between:

The Depot Manager,
APSRTC, Warangal-II Depot,
Warangal petitioner

And

Sri K Agaiah
H No. 10-109, Nadaram Street, Perkal
Warangal and another respondents

THE HON'BLE MR JUSTICE N.V. RAMANA

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ORAL ORDER:

This writ petition is filed questioning the award passed in I.D. No. 123 of 1994 dated 5.12.1997 as illegal and arbitrary.

The first respondent herein is driver working in Warangal depot. He was issued with a charge sheet dated 5.7.1989 alleging rash and negligent driving resulting in damages to the bus and causing injuries to a passenger. Having not satisfied with the explanation offered by the workman, disciplinary proceedings were initiated against him and ultimately by order dated 22.11.1989 punishment of deferment of increments for a period of two years with cumulative effect and treating the period of suspension as not on duty was imposed. Questioning the said punishment, the first respondent herein raised an industrial dispute in I.D. No. 123 of 1994 on the file of labour Court, Warangal. The Labour Court, on consideration of the matter, passed an award dated 5.12.1997 setting aside the punishment and directing the respondents to give all the benefits and also wages during the suspension period with continuity of service. Questioning the said award the present writ petition is filed by the management of APSRTC.

Heard learned counsel for petitioner and learned counsel for respondent-workman and perused the award under challenge.

The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India to issue a writ of Certiorari are limited to—firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are based on suspicion, conjectures or surmises or no reason. The law is well settled that this Court does not act as an appellate authority and reappraise the evidence while exercising certiorari jurisdiction. It is within these parameters, the impugned award of the Labour Court, is to be examined.

In **DIVISIONAL CONTROLLER, KSRTC (NWKRTC) Vs. A.T.MANE** [1], the Apex Court held that once a domestic tribunal based on evidence comes to a particular conclusion, normally it is not open to the appellate tribunals and Courts to substitute their subjective opinion in the place of the one arrived at by the domestic tribunal.

In the present case, the labour Court on consideration of the matter and having regard to the statements given by the Mechanic and Conductor of the bus that the accident occurred due to missing of brake peddle pin resulting in failure of brakes and that the first respondent/workman has cautioned the passengers by shouting that the brakes failed and to be more cautious, came to the conclusion that the findings of the enquiry officer are incorrect and not maintainable. The labour Court held that the

respondent/petitioner herein ought not to have confirmed the findings of the enquiry officer and came to the conclusion that the respondent/petitioner herein is not justified in imposing the punishment.

Having regard to the fact that the accident occurred due to mechanical failure i.e. failure of the brakes and that the first respondent herein/workman has taken precaution and cautioned the passengers that the brakes of the vehicle were failed, the labour Court set aside the punishment order, which cannot be said to be illegal warranting interference of this Court. The petitioner herein except reiterating the points raised and answered by the Labour Court, has not urged any new point before this court. There are no merits in the writ petition.

Accordingly the award of the Labour Court dated 5.12.1997 is confirmed and the writ petition is hereby dismissed.

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N.V.RAMANA,J

DATE: 13.6.2007
TVK

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[1] 2005 (3) SCC 254